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SENATE BILL 358

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO TAXATION; AMENDING THE COUNTY FIRE PROTECTION
EXCISE TAX; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-20E-15 NMSA 1978 (being Laws 1979,
Chapter 398, Section 3, as amended) is amended to read:

"7-20E-15. COUNTY FIRE PROTECTION EXCISE TAX--AUTHORITY
TO IMPOSE--ORDINANCE REQUIREMENTS.--

A. The majority of the members of the governing
body may enact an ordinance imposing an excise tax on any
person engaging in business in the county area for the
privilege of engaging in business. The rate of the tax shall
be one-fourth ~~[of one]~~ percent or one-eighth ~~[of one]~~ percent
of the gross receipts of the person engaging in business. ~~[The
tax provided in this section shall be imposed for a period of~~

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1 ~~not more than ten years from the effective date of the~~
2 ~~ordinance imposing the tax. Having once enacted an ordinance~~
3 ~~under this section, the governing body may enact subsequent~~
4 ~~ordinances for succeeding periods of not more than five years,~~
5 ~~provided each such ordinance meets the requirements of the~~
6 ~~County Local Option Gross Receipts Taxes Act with respect to~~
7 ~~the tax imposed by this section.]~~

8 B. This tax is to be referred to as the "county
9 fire protection excise tax".

10 C. The governing body of a county shall, at the
11 time of enacting an ordinance imposing the rate of the tax
12 authorized in Subsection A of this section, dedicate the
13 revenue for the purpose of financing the operational expenses,
14 ambulance services or capital outlay costs of independent fire
15 districts or ambulance services provided by the county. In any
16 election held, the ballot shall clearly state the purpose to
17 which the revenue will be dedicated and shall be used by the
18 county for that purpose.

19 D. Any ordinance enacted under the provisions of
20 Subsection A of this section shall include an effective date of
21 either July 1 or January 1 in accordance with the provisions of
22 the County Local Option Gross Receipts Taxes Act.

23 E. The ordinance shall not go into effect until
24 after an election is held and a simple majority of the
25 qualified electors of the county area voting in the election

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1 votes in favor of imposing the county fire protection excise
2 tax. The governing body shall adopt a resolution calling for
3 an election within seventy-five days of the date the ordinance
4 is adopted on the question of imposing the tax. Such question
5 may be submitted to the qualified electors and voted upon as a
6 separate question at any special election called for that
7 purpose by the governing body. The election upon the question
8 shall be called, held, conducted and canvassed in substantially
9 the same manner as provided by law for general elections. If
10 the question of imposing a county fire protection excise tax
11 fails, the governing body shall not again propose a county fire
12 protection excise tax for a period of one year after the
13 election."

14 Section 2. Section 7-20E-22 NMSA 1978 (being Laws 2002,
15 Chapter 14, Section 1, as amended) is amended to read:

16 "7-20E-22. COUNTY EMERGENCY COMMUNICATIONS AND EMERGENCY
17 MEDICAL SERVICES TAX--AUTHORITY TO IMPOSE COUNTYWIDE OR ONLY IN
18 THE COUNTY AREA--ORDINANCE REQUIREMENTS--USE OF REVENUE--
19 ELECTION.--

20 A. The majority of the members of the governing
21 body of an eligible county that does not have in effect a tax
22 imposed pursuant to Subsection B of this section may enact an
23 ordinance imposing an excise tax at a rate not to exceed one-
24 fourth percent of the gross receipts of a person engaging in
25 business in the county for the privilege of engaging in

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1 business. The tax imposed by this subsection may be referred
2 to as the "countywide emergency communications and emergency
3 medical services tax".

4 B. The majority of the members of the governing
5 body of an eligible county that does not have in effect a tax
6 imposed pursuant to Subsection A of this section may enact an
7 ordinance imposing an excise tax at a rate not to exceed
8 one-fourth percent of the gross receipts of a person engaging
9 in business in the county area for the privilege of engaging in
10 business. The tax imposed by this subsection may be referred
11 to as the "county area emergency communications and emergency
12 medical services tax".

13 C. The tax authorized in Subsections A and B of
14 this section may be imposed in one or more increments of
15 one-sixteenth percent not to exceed an aggregate rate of
16 one-fourth percent. ~~[The tax shall be imposed for a period of
17 not more than ten years from the effective date of the
18 ordinance imposing the tax. Having once enacted an ordinance
19 under this section, the governing body may enact subsequent
20 ordinances for succeeding periods of not more than ten years,
21 provided each such ordinance meets the requirements of the
22 County Local Option Gross Receipts Taxes Act with respect to
23 the tax imposed by this section.]~~

24 D. The governing body, at the time of enacting an
25 ordinance imposing a rate of tax authorized in Subsection A or

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1 B of this section, shall dedicate the revenue to one or both of
2 the following purposes:

3 (1) operation of an emergency communications
4 center that has been determined by the local government
5 division of the department of finance and administration to be
6 a consolidated public safety answering point; or

7 (2) operation of emergency medical services
8 provided by the county.

9 E. An ordinance imposing any increment of the
10 countywide emergency communications and emergency medical
11 services tax or the county area emergency communications and
12 emergency medical services tax shall not go into effect until
13 after an election is held and a majority of the voters voting
14 in the election vote in favor of imposing the tax. In the case
15 of an ordinance imposing an increment of the countywide
16 emergency communications and emergency medical services tax,
17 the election shall be conducted countywide. In the case of an
18 ordinance imposing the county area emergency communications and
19 emergency medical services tax, the election shall be conducted
20 only in the county area. The governing body shall adopt a
21 resolution calling for an election within seventy-five days of
22 the date the ordinance is adopted on the question of imposing
23 the tax. The question may be submitted to the voters as a
24 separate question at a general election or at a special
25 election called for that purpose by the governing body. A

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1 special election shall be called, conducted and canvassed in
2 substantially the same manner as provided by law for general
3 elections. In any election held, the ballot shall clearly
4 state the purpose to which the revenue will be dedicated
5 pursuant to Subsection D of this section. If a majority of the
6 voters voting on the question approve the imposition of the
7 countywide emergency communications and emergency medical
8 services tax or the county area emergency communications and
9 emergency medical services tax, the ordinance shall become
10 effective in accordance with the provisions of the County Local
11 Option Gross Receipts Taxes Act. If the question of imposing
12 the tax fails, the governing body shall not again propose the
13 imposition of any increment of either tax for a period of one
14 year from the date of the election.

15 F. For the purposes of this section, "eligible
16 county" means a county that operates or, pursuant to a joint
17 powers agreement, is served by an emergency communications
18 center that has been determined by the local government
19 division of the department of finance and administration to be
20 a consolidated public safety answering point."

21 Section 3. Section 7-20F-2 NMSA 1978 (being Laws 1993,
22 Chapter 303, Section 2, as amended) is amended to read:

23 "7-20F-2. DEFINITIONS.--As used in the County
24 Correctional Facility Gross Receipts Tax Act:

25 A. "county" means

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1 [~~(1) a class A county, the population of which~~
2 ~~does not exceed one hundred fifty thousand people as determined~~
3 ~~by the 1990 federal decennial census;~~

4 ~~(2) a class B county with a population of at~~
5 ~~least fifty-seven thousand people but less than sixty thousand~~
6 ~~as determined by the 1990 federal decennial census; or~~

7 ~~(3) a class B county with a population of at~~
8 ~~least forty-five thousand people but less than forty-seven~~
9 ~~thousand as determined by the 1990 federal decennial census] a~~
10 county of New Mexico;

11 B. "county board" means the board of county
12 commissioners of a county;

13 C. "department" means the taxation and revenue
14 department, the secretary of taxation and revenue or any
15 employee of the department exercising authority lawfully
16 delegated to that employee by the secretary;

17 D. "judicial-correctional facility" means a
18 facility for housing and use by judicial and corrections
19 agencies, including housing for persons confined in county
20 [~~corrections~~] correctional facilities; however, none of the
21 facilities are required to be located on the same or contiguous
22 parcels of land;

23 E. "municipality" means any incorporated city, town
24 or village, whether incorporated under general act, special act
25 or special charter;

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1 F. "person" means an individual or any other legal
2 entity;

3 G. "pledged revenues" means the revenue, net income
4 or net revenues authorized to be pledged to the payment of
5 revenue bonds issued pursuant to the provisions of the County
6 Correctional Facility Gross Receipts Tax Act;

7 H. "refunding bond" means a refunding revenue bond
8 issued pursuant to the provisions of the County Correctional
9 Facility Gross Receipts Tax Act to refund revenue bonds issued
10 pursuant to the provisions of that act; and

11 I. "revenue bond" means a county correctional
12 facility gross receipts tax revenue bond."

13 Section 4. Section 7-20F-3 NMSA 1978 (being Laws 1993,
14 Chapter 303, Section 3, as amended) is amended to read:

15 "7-20F-3. COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS
16 TAX--AUTHORITY TO IMPOSE--RATE--ORDINANCE REQUIREMENTS--
17 REFERENDUM.--

18 A. The majority of the members elected to the
19 county board may enact an ordinance imposing on a countywide
20 basis an excise tax not to exceed a rate of one-eighth [~~of one~~]
21 percent of the gross receipts of any person engaging in
22 business in the county, including all municipalities within the
23 county [~~provided that the voters of:~~

24 ~~(1) a class A county described in Paragraph~~
25 ~~(1) of Subsection A of Section 7-20F-2 NMSA 1978 or a class B~~

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1 ~~county described in Paragraph (2) of Subsection A of Section~~
2 ~~7-20F-2 NMSA 1978 have approved the issuance of general~~
3 ~~obligation bonds of the county sufficient to pay at least~~
4 ~~one-half of the costs of the construction and equipping of the~~
5 ~~new county judicial-correctional facility for which the county~~
6 ~~correctional facility gross receipts tax revenue is dedicated;~~
7 ~~or~~

8 ~~(2) a class B county described in Paragraph~~
9 ~~(3) of Subsection A of Section 7-20F-2 NMSA 1978 have approved~~
10 ~~the issuance of bonds by the New Mexico finance authority~~
11 ~~sufficient to pay at least one-half of the costs of designing,~~
12 ~~constructing, equipping, furnishing and otherwise improving the~~
13 ~~new county correctional facility for which the county~~
14 ~~correctional facility gross receipts tax revenue is dedicated].~~

15 B. The tax imposed pursuant to Subsection A of this
16 section may be referred to as the "county correctional facility
17 gross receipts tax". The county correctional facility gross
18 receipts tax shall be imposed only once for the period
19 necessary for payment of the principal and interest on revenue
20 bonds issued pursuant to the County Correctional Facility Gross
21 Receipts Tax Act [~~but the period shall not exceed ten years~~
22 ~~from the effective date of the ordinance imposing the tax].~~

23 C. Any ordinance imposing a county correctional
24 facility gross receipts tax pursuant to this section shall:

25 (1) impose the tax in any number of increments

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1 of one-sixteenth [~~of one~~] percent not to exceed an aggregate
2 amount of one-eighth [~~of one~~] percent;

3 (2) specify that the imposition of the tax
4 will begin on either July 1 or January 1, whichever occurs
5 first after the expiration of at least three months from the
6 date that the department is notified personally or by mail by
7 the county [~~that imposition of the county correctional facility~~
8 ~~gross receipts tax has been approved by a majority of the~~
9 ~~registered voters in the county voting on the question]~~ of
10 adoption of the ordinance; and

11 (3) dedicate the revenue from the county
12 correctional facility gross receipts tax:

13 (a) for the purpose of operating,
14 maintaining, constructing, purchasing, furnishing, equipping,
15 rehabilitating, expanding or improving a judicial-correctional
16 or a county correctional facility or the grounds of a judicial-
17 correctional or county correctional facility, including [~~but~~
18 ~~not limited to~~] acquiring and improving parking lots,
19 landscaping or any combination of the foregoing;

20 (b) for the purpose of transporting or
21 extraditing prisoners; or

22 (c) to payment of principal and interest
23 on revenue bonds or refunding bonds issued pursuant to the
24 provisions of the County Correctional Facility Gross Receipts
25 Tax Act.

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1 D. An ordinance imposing a county correctional
2 facility gross receipts tax pursuant to this section shall ~~[not~~
3 ~~become effective until after an election is held and a simple~~
4 ~~majority of the qualified electors of the county voting in the~~
5 ~~election votes in favor of imposing the tax.~~

6 E. ~~The governing body shall adopt a resolution~~
7 ~~calling for an election within seventy-five days of the date~~
8 ~~the ordinance is adopted on the question of imposing the tax,~~
9 ~~and:~~

10 ~~(1) in a class A county described in Paragraph~~
11 ~~(1) of Subsection A of Section 7-20F-2 NMSA 1978 or a class B~~
12 ~~county described in Paragraph (2) of Subsection A of Section~~
13 ~~7-20F-2 NMSA 1978, if a property tax at a rate necessary to~~
14 ~~comply with the provisions of Subsection A of this section has~~
15 ~~not been approved by the voters of the county, the question~~
16 ~~submitted to the voters shall be the question of imposing a~~
17 ~~county correctional facility gross receipts tax and a property~~
18 ~~tax at a rate necessary for the issuance of general obligation~~
19 ~~bonds of the county sufficient to comply with the provisions of~~
20 ~~the County Correctional Facility Gross Receipts Tax Act; or~~

21 ~~(2) in a class B county described in Paragraph~~
22 ~~(3) of Subsection A of Section 7-20F-2 NMSA 1978, the question~~
23 ~~to be submitted to the voters is "Shall a county correctional~~
24 ~~facility gross receipts tax be imposed to repay bonds that will~~
25 ~~be issued by the New Mexico finance authority in an amount~~

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1 ~~sufficient to pay at least one-half of the costs of designing,~~
2 ~~constructing, equipping, furnishing and otherwise improving the~~
3 ~~new county correctional facility?".~~

4 ~~F. The question shall be submitted to the voters at~~
5 ~~any general election or special election called for that~~
6 ~~purpose by the board.~~

7 ~~G. The election upon the question shall be called,~~
8 ~~held, conducted and canvassed in substantially the same manner~~
9 ~~as may be provided by law for general elections.~~

10 ~~H. If the question of imposing the county~~
11 ~~correctional facility gross receipts tax and a property tax, if~~
12 ~~the question includes a property tax, fails, the board shall~~
13 ~~not again propose imposition of a county correctional facility~~
14 ~~gross receipts tax for a period of one year after the election]~~
15 ~~go into effect on July 1 or January 1 in accordance with the~~
16 ~~provisions of Paragraph (2) of Subsection C of this section,~~
17 ~~but an election may be called in the county on the question of~~
18 ~~approving or disapproving that ordinance as follows:~~

19 ~~(1) an election shall be called when:~~

20 ~~(a) in a county having a referendum~~
21 ~~provision in its charter, a petition requesting such an~~
22 ~~election is filed pursuant to the requirements of that~~
23 ~~provision in the charter and signed by the number of registered~~
24 ~~voters in the county equal to the number of registered voters~~
25 ~~required in its charter to seek a referendum; and~~

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1 (b) in all other counties, a petition
2 requesting such an election is filed with the county clerk
3 within thirty days of enactment of the ordinance by the
4 governing body and the petition has been signed by a number of
5 registered voters in the county equal to at least five percent
6 of the number of the voters in the county who were registered
7 to vote in the most recent general election;

8 (2) the signatures on the petition requesting
9 an election shall be verified by the county clerk. If the
10 petition is verified by the county clerk as containing the
11 required number of signatures of registered voters, the
12 governing body shall adopt a resolution calling an election on
13 the question of approving or disapproving the ordinance. The
14 election shall be held within sixty days after the date the
15 petition is verified by the county clerk, or it may be held in
16 conjunction with a general election if that election occurs
17 within sixty days after the date of the verification. The
18 election shall be called, held, conducted and canvassed in
19 substantially the same manner as provided by law for general
20 elections; and

21 (3) if a majority of the registered voters
22 voting on the question approves the ordinance, the ordinance
23 shall go into effect on July 1 or January 1 in accordance with
24 the provisions of Paragraph (2) of Subsection C of this
25 section. If at such an election a majority of the registered

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1 voters voting on the question disapproves the ordinance, the
2 ordinance imposing the tax shall be deemed repealed and the
3 question of imposing the tax shall not be considered again by
4 the governing body for a period of one year from the date of
5 the election.

6 ~~[F.]~~ E. If the county has pledged the revenue from
7 imposition of the county correctional facilities gross receipts
8 tax to the repayment of bonds or other indebtedness, revenue
9 produced by the imposition of a county correctional facility
10 gross receipts tax that is in excess of the annual principal
11 and interest due on bonds secured by a pledge of the county
12 correctional facility gross receipts tax may be accumulated in
13 a debt service reserve account until an amount equal to the
14 maximum amount permitted pursuant to the provisions of the
15 United States treasury regulations is accumulated in the debt
16 service reserve account. After the debt service reserve
17 account requirements have been met, the excess revenue shall be
18 accumulated in an extraordinary mandatory redemption fund and
19 annually used to redeem the bonds prior to their stated
20 maturity date.

21 ~~[J.]~~ F. If the county has pledged the revenue from
22 imposition of the county correctional facilities gross receipts
23 tax to the repayment of bonds or other indebtedness, when all
24 outstanding bonds have been paid, whether from the debt service
25 reserve, the redemption fund or maturity, the ordinance shall

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1 be repealed if the county correctional facility gross receipts
2 tax revenue is no longer required for the purposes for which it
3 may be used pursuant to the provisions of the County
4 Correctional Facility Gross Receipts Tax Act.

5 ~~[K-]~~ G. The repeal of an ordinance imposing a
6 county correctional facility gross receipts tax shall state
7 that the repeal shall be effective on January 1 or July 1,
8 whichever occurs first following the date the department is
9 notified personally or by mail by the county of the repeal."

10 Section 5. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2004.

12 Section 6. EMERGENCY.--It is necessary for the public
13 peace, health and safety that this act take effect immediately.